

or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

#### V

It is further ordered that respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with the requirements of this order.

#### Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from David Green, M.D. (herein "Dr. Green"), an individual doing business as The Varicose Vein Center, a sole proprietorship (herein "VVC"). Through VVC, Dr. Green markets a procedure commonly known as "sclerotherapy" for treating venous disease, including varicose veins and spider veins. Proposed respondent currently offers his sclerotherapy services to the public at VVC's clinic in Bethesda, Maryland.

Dr. Green's treatment method consists of injecting a sclerosing solution into the veins, followed by compression of the area with a bandage and post-procedure ambulation by the patient. As part of his treatment regimen, Dr. Green refers certain patients with varicose veins to surgeons for surgical division and ligation of their veins procedure prior to performing his sclerotherapy injections. These include patients Dr. Green has diagnosed as having truncal varicosities with incompetence at the saphenofemoral or saphenopopliteal junction.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint charges that proposed respondent deceptively advertised: (1) The permanence of the results of his sclerotherapy treatments; (2) the success rate for his treatments; and (3) the painlessness of his regimen for treating venous disease.

#### Permanence

The complaint alleges that proposed respondent failed to possess a

reasonable basis for claims he has made regarding the permanence of the results of his treatments. In newspaper and magazine advertisements, Dr. Green has represented that the treatments provided at VVC would "permanently remove" or "permanently eliminate" varicose and spider veins. A brochure Dr. Green provided to prospective patients described sclerotherapy as the "non-surgical procedure used to permanently remove spider and varicose veins from the legs and thighs." The Commission believes that these permanence claims are deceptive because at the time proposed respondent made these claims, he did not possess adequate substantiation for those claims.

The proposed consent order seeks to address the alleged deceptive permanence claims cited in the complaint by requiring Dr. Green to possess a reasonable basis, consisting of competent and reliable scientific evidence, substantiating any claim that spider veins and varicose veins are permanently eliminated following treatment by proposed respondent (Part I.A.). Part I.A. of the proposed order also requires that Dr. Green possess a reasonable basis for any representation he makes regarding the duration of results following treatment by any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

#### Success Rate

The Commission's complaint further alleges that proposed respondent failed to possess a reasonable basis for his claim, made in newspaper advertisements, that his non-surgical procedure has a "success rate greater than 95%." The Commission believes this success rate claim is deceptive because at the time proposed respondent made it, he did not possess adequate substantiation for this claim.

The proposed consent order seeks to address this alleged deceptive success rate claim by requiring that Dr. Green possess a reasonable basis, consisting of competent and reliable scientific evidence, substantiating any claim that his treatments succeed in eliminating varicose and spider veins at a rate greater than 95 percent (Part I.B.). Part I.B further requires that Dr. Green possess a reasonable basis for any representation he makes regarding the success rate for, or the rate at which a condition is likely to recur or return following treatment by, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

#### Pain

The complaint also alleges that proposed respondent failed to possess a reasonable basis for his claims that the treatments he provides through VVC are painless. In newspaper advertisements, Dr. Green has claimed that his treatments are "Painless, Safe, Non-Surgical" and that his "non-surgical, in-office procedures" are "painless." The Commission believes these claims about the pain associated with the treatments provided at VVC are deceptive because at the time proposed respondent made them, he did not possess adequate substantiation for these claims.

The proposed consent order addresses these deceptive claims about pain by requiring that Dr. Green possess a reasonable basis, consisting of competent and reliable scientific evidence, substantiating any claim that patients do not experience any pain in connection with proposed respondent's regimen for treating their varicose and spider veins (Part I.C). In addition, Part I.C of the proposed consent requires that proposed respondent possess a reasonable basis for any representation he makes regarding the nature, duration or intensity of pain associated with any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

Part I.D. of the proposed order further requires proposed respondent to possess substantiation, consisting of competent and reliable scientific evidence, for any representation regarding the efficacy of, or the risks, side-effects, or recovery period associated with, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

Finally, Paragraphs II, III and IV of the proposed order contain the standard recordkeeping and notification provisions required by the Commission in consent orders.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Benjamin I. Berman,

*Acting Secretary.*

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[Dkt. C-2929]

#### Interco Incorporated, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

**SUMMARY:** The order reopens a 1978 consent order that settled allegations that the respondents had engaged in anticompetitive practices, including illegally fixing resale prices for their products. This order modifies the consent order so that the respondents are permitted to implement lawful price-restrictive cooperative advertising programs and to unilaterally terminate resellers for failure to adhere to previously announced resale prices or sales periods.

**DATES:** Consent order issued September 26, 1978. Modifying order issued March 27, 1995.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** Daniel Ducore, FTC/S-2115, Washington, DC 20580. (202) 326-2526.

**SUPPLEMENTARY INFORMATION:** In the Matter of Interco Incorporated, et al. The prohibited trade practices and/or corrective actions as set forth at 43 FR 48991, are changed, in part, as indicated in the summary.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13; Sec. 3, 38 Stat. 731; 15 U.S.C. 14)

Benjamin I. Berman,  
*Acting Secretary.*

[FR Doc. 95-9264 Filed 4-13-95; 8:45 am]

**BILLING CODE 6750-01-M**

[File No. 932 3332]

### **Mattel, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a California-based corporation from representing that any aerosol product it sells offers any environmental benefit, unless it can substantiate the claim.

**DATES:** Comments must be received on or before June 13, 1995.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:**

Michael Dershowitz, FTC/S-4002, Washington, D.C. 20580. (202) 326-3158.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of Mattel, Inc., a corporation. File No. 932-3332.

#### **Agreement Containing Consent Order to Cease and Desist**

The Federal Trade Commission having initiated an investigation of certain acts and practices of Mattel, Inc., a corporation ("proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between Mattel, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Mattel, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office or place of business at 333 Continental Blvd., El Segundo, California, 90245-5012.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated hereby,

will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

<sup>1</sup> Copies of the Modifying Order and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.